



Supreme Court of California
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NEWS RELEASE

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FOR IMMEDIATE RELEASE

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Summary of Cases Accepted and Related Actions During Week of June 8, 2015

[This news release is issued to inform the public and the press of cases that the Supreme Court has accepted and of their general subject matter. The statement of the issue or issues in each case set out below does not necessarily reflect the view of the court, or define the specific issues that will be addressed by the court.]

#15-69 *Jacks v. City of Santa Barbara, S225589.* (B253474; 234 Cal.App.4th 925; Santa Barbara County Superior Court; 1383959.) Petition for review after the Court of Appeal reversed the judgment in a civil action. The court limited review to the following issue: Is the City of Santa Barbara's 1 percent increase on its electricity bills (i.e., the 1 percent surcharge) a tax subject to Proposition 218's voter approval requirement or a franchise fee that may be imposed by the City without voter consent?

#15-70 *Roy Allen Slurry Seal, Inc. v. American Asphalt South, Inc., S225398.* (B255558; 234 Cal.App.4th 748; Riverside County Superior Court; RIC1308832.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) In the context of competitive bidding on a public works contract, may the second lowest bidder state a claim for intentional interference with prospective economic advantage against the winning bidder based on an allegation that the winning bidder did not fully comply with California's prevailing wage law after the contract was awarded? (2) To state a cause of action for intentional interference with prospective economic advantage, must the plaintiff allege that it had a *preexisting* economic relationship with a third party with probable future benefit that preceded or existed separately from defendant's interference, or is it sufficient for the plaintiff to allege that its economic expectancy arose at the time the public agency awarded the contract to the low bidder?

#15-71 *People v. Davis, S225603.* (A139111; 234 Cal.App.4th 1001; San Mateo County Superior Court; SC43066A.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

#15-72 *People v. Taylor*, S225626. (E059227; nonpublished opinion; Riverside County Superior Court; RIF139865.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence.

The court ordered briefing in *Davis* and *Taylor* deferred pending decision in *People v. Chaney*, S223676 (#15-13), and *People v. Valencia*, S223825 (#15-14), which present the following issue: Does the definition of “unreasonable risk of danger to public safety” (Pen. Code, § 1170.18, subd. (c)) under Proposition 47 (“the Safe Neighborhoods and Schools Act”) apply on retroactivity or other grounds to resentencing under the Three Strikes Reform Act of 2012 (Pen. Code, § 1170.126)?

#15-73 *People v. Enriquez*, S224724. (F065288; nonpublished opinion; Kern County Superior Court; BF137853C.) Petitions for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Elizalde*, S215260 (#14-37) and *People v. Prunty*, S210234 (#13-55). *Elizalde* presents the following issues: (1) Was defendant subjected to custodial interrogation without the benefit of warnings under *Miranda v. Arizona* (1966) 384 U.S. 436, when he was questioned about his gang affiliation during an interview while being booked into jail, or did the questioning fall within the booking exception to *Miranda*? (2) If the questioning fell outside the booking exception, was defendant prejudiced by the admission of his incriminating statements at trial? *Prunty* presents the following issue: Is evidence of a collaborative or organizational nexus required before multiple subsets of the Norteños can be treated as a whole for the purpose of determining whether a group constitutes a criminal street gang within the meaning of Penal Code section 186.22, subdivision (f)?

#15-74 *People v. Garcia*, S226098. (H040077; nonpublished opinion; Santa Clara County Superior Court; C1242134.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense.

#15-75 *People v. Gonzales*, S225604. (H040709; nonpublished opinion; Santa Clara County Superior Court; C1349789.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense.

#15-76 *People v. Jacalne*, S225510. (H040045; nonpublished opinion; Santa Clara County Superior Court; C1231928.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense.

#15-77 *People v. Rebulloza*, S225503. (H040847; 234 Cal.App.4th 1065; Santa Clara County Superior Court; C1238226.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense.

#15-78 *People v. Robledo*, S225901. (H039772; nonpublished opinion; Santa Clara County Superior Court; C1238176.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense.

#15-79 *People v. Tekle*, S226087. (H040692; nonpublished opinion; Santa Clara County Superior Court; C1350964.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of a criminal offense.

The court ordered briefing in *Garcia*, *Gonzales*, *Jacalne*, *Rebulloza*, *Robledo*, and *Tekle* deferred pending decision in *People v. Friday*, S218288 (#14-77), *People v. Garcia*, S218197 (#14-78), and *People v. Klatt*, 218755 (#14-79), which present the following issue: Are the conditions of probation mandated by Penal Code section 1203.067, subdivision (b), for persons convicted of specified felony sex offenses — including waiver of the privilege against self-incrimination, required participation in polygraph examinations, and waiver of the psychotherapist–patient privilege — constitutional?

#15-80 *People v. Gordon*, S225318. (C075825; nonpublished opinion; Butte County Superior Court; CM038133.) Petition for review after the Court of Appeal affirmed a judgment of conviction of a criminal offense. The court ordered briefing deferred pending decision in *People v. Martinez*, S219970 (#14-104), which presents the following issue: Can a defendant, who is convicted of hit-and-run and sentenced to prison rather than placed on probation, be required to pay restitution for the injuries the victim suffered in the collision?

#15-81 *People v. Hamilton*, S225853. (B256751; nonpublished opinion; Los Angeles County Superior Court; GA041750.) Petition for review after the Court of Appeal affirmed an order denying a petition to recall sentence. The court ordered briefing deferred pending decision in *People v. Johnson*, S219454 (#14-87), and *People v. Machado*, S219819 (#14-88), which present the following issues: (1) For the purpose of determining eligibility for resentencing under the Three Strikes Reform Act of 2012 (Prop. 36, Gen. Elec. (Nov. 6, 2012) [Pen. Code, § 1170.126]), is an offense considered a serious or violent felony if it was *not* defined as a serious or violent felony on the date the offense was committed but *was* defined as a serious or violent felony on the effective date of the Act? (2) Is an inmate serving an indeterminate term of life imprisonment under the Three Strikes Law (Pen. Code, §§ 667, subds. (b)-(j), 1170.12), which was imposed for a conviction of an offense that is *not* a serious or violent felony, eligible for resentencing on that conviction under the Three Strikes Reform Act if the inmate is also serving an indeterminate term of life imprisonment under the Three Strikes Law for a conviction of an offense that *is* a serious or violent felony?

#15-82 *Hsu v. California Dept. of Toxic Substances Control*, S225332. (D067187; nonpublished order; San Diego County Superior Court; 37-2011-00099531-CU-WM-CTL.) Petition for review after the Court of Appeal dismissed an appeal in a civil action.

#15-83 *Hsu v. California Dept. of Toxic Substances Control*, S226143. (D067632; nonpublished order; San Diego County Superior Court; 37-2011-00099531-CU-WM-CTL.) Petition for review after the Court of Appeal dismissed an appeal in a civil action.

The court ordered briefing in the *Hsu* matters deferred pending decision in *John v. Superior Court*, S222726 (#15-09), which presents the following issue: Must a defendant who has been declared a vexatious litigant and is subject to a prefiling order (Code Civ. Proc., § 391.7, subd. (a)) obtain leave of the presiding judge or justice before filing an appeal from an adverse judgment?

#15-84 *People v. Lopez*, S225637. (F067244; nonpublished opinion; Tulare County Superior Court; VCF266987.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Prunty*, S210234 (#13-55), which presents the following issue: Is evidence of a collaborative or organizational nexus required before multiple subsets of the Norteños can be treated as a whole for the purpose of determining whether a group constitutes a criminal street gang within the meaning of Penal Code section 186.22, subdivision (f)?

#15-85 *People v. McCloud*, S225454. (B251262; nonpublished opinion; Los Angeles County Superior Court; BA331910.) Petition for review after the Court of Appeal modified and affirmed a judgment of conviction of criminal offenses. The court ordered briefing deferred pending decision in *In re Alatraste*, S214652 (#14-21), *In re Bonilla*, S214960 (#14-22), and *People v. Franklin*, S217669 (#14-56), which include the following issues: (1) Did Senate Bill 260 (Reg. Sess. 2013-2014), which includes provisions for a parole suitability hearing after a maximum of 25 years for most juvenile offenders serving life sentences, render moot any claim that such a sentence violates the Eighth Amendment to the federal Constitution and that the petitioner is entitled to a new sentencing hearing applying the mitigating factors for such juvenile offenders set forth in *Miller v. Alabama* (2012) 567 U.S. __ [132 S.Ct. 2455]? If not: (2) Does *Miller* apply retroactively on habeas corpus to a prisoner who was a juvenile at the time of the commitment offense and who is presently serving a sentence that is the functional equivalent of life without the possibility of parole? (3) Is a total term of imprisonment of 77 years to life (*Alatraste*) or 50 years to life (*Bonilla* and *Franklin*) for murder committed by a 16-year-old offender the functional equivalent of life without possibility of parole by denying the offender a meaningful opportunity for release on parole? (4) If so, does the sentence violate the Eighth Amendment absent consideration of the mitigating factors for juvenile offenders set forth in *Miller*?

#15-86 *People v. Medina*, S225141. (C069965; nonpublished opinion; Sacramento County Superior Court; 08F03645.) Petitions for review after the Court of Appeal modified and affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Banks*, S213819 (#13-107), which presents issues concerning the liability of an aider and abettor for a felony-murder special circumstance.

#15-87 *People v. Rodriguez*, S225231. (F065807; nonpublished opinion; Stanislaus County Superior Court; 1085319.) Petitions for review after the Court of Appeal affirmed judgments of conviction of criminal offenses. The court ordered briefing deferred pending decision in *People v. Romero & Self*, S055856, an automatic appeal, and pending decision in *In re Alatraste*, S214652 (#14-21), *In re Bonilla*, S214960 (#14-22), and *People v. Franklin*, S217669 (#14-56), which include the following issues: (1) Did Senate Bill 260 (Reg. Sess. 2013-2014), which includes provisions for a parole suitability hearing after a maximum of 25 years for most juvenile offenders serving life sentences, render moot any claim that such a sentence violates the Eighth Amendment to the federal Constitution and that the petitioner is entitled to a new sentencing hearing applying the mitigating factors for such juvenile offenders set forth in *Miller v. Alabama* (2012) 567 U.S. __ [132 S.Ct. 2455]? If not: (2) Does *Miller* apply retroactively on habeas corpus to a prisoner who was a juvenile at the time of the commitment offense and who is presently serving a sentence that is the functional equivalent of life without the possibility of parole? (3) Is a total term of imprisonment of 77 years to life (Alatraste) or 50 years to life (Bonilla and Franklin) for murder committed by a 16-year-old offender the functional equivalent of life without possibility of parole by denying the offender a meaningful opportunity for release on parole? (4) If so, does the sentence violate the Eighth Amendment absent consideration of the mitigating factors for juvenile offenders set forth in *Miller*?

#15-88 *Trabert v. Consumer Portfolio Services, Inc.*, S225749. (D065556; 234 Cal.App.4th 1154; San Diego County Superior Court; 37-2010-00096763-CU-BT-CTL.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration in a civil action. The court ordered briefing deferred pending decision in *Sanchez v. Valencia Holding Co. LLC*, S199119 (#12-33), which includes the following issue: Does the Federal Arbitration Act (9 U.S.C. § 2), as interpreted in *AT&T Mobility LLC v. Concepcion* (2011) 563 U. S. 321, preempt state law rules invalidating mandatory arbitration provisions in a consumer contract as procedurally and substantively unconscionable?

#15-89 *Universal Protection Service, L.P. v. Superior Court*, S225450. (D066919; 234 Cal.App.4th 1128; San Diego County Superior Court; 37-2014-00012338-CU-MC-NC.) Petition for review after the Court of Appeal affirmed an order granting a petition to compel arbitration in a civil action. The court ordered briefing deferred pending decision

in *Sandquist v. Lebo Automotive, Inc.*, S220812 (#14-127), which presents the following issue: Does the trial court or the arbitrator decide whether an arbitration agreement provides for class arbitration if the agreement itself is silent on the issue?

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The Supreme Court of California is the state's highest court and its decisions are binding on all other California state courts. The court's primary role is to decide matters of statewide importance and to maintain uniformity in the law throughout California by reviewing matters from the six districts of the California Courts of Appeal and the fifty-eight county superior courts (the trial courts). Among its other duties, the court also decides all capital appeals and related matters and reviews both attorney and judicial disciplinary matters.